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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,684

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EXAMINER

ANDRAMUNO, FRANKLIN S

ART UNIT

PAPER NUMBER

2424

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,684	Applicant(s) YAMAGUCHI ET AL.	
	Examiner FRANKLIN S. ANDRAMUNO	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/23/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (US 7,305,357 B2) in view of Iijima et al (US 6,816,967 B1) in view of Knee et al (US 6,769,128 B1). Hereinafter referred to as Hamilton, Iijima and Knee.

Regarding claims 1, 7, 11, and 15, Hamilton discloses a content distribution system (**Content On Demand System (10) in figure 1**), comprising: a content delivery server that broadcasts (**column 2 lines 30-35**) and receiving client that receives the data stream for a broadcast program (**figure 4**), the control information for obtaining the broadcast program (**column 5 lines 48-61**), and the program information stores the broadcast contents (**column 5 lines 52-54**) and reproduces the stored (**column 6 lines 28-38**) broadcast program. The content receiving client controls a reproduction for the stored broadcast program based on the content control information (**column 6 lines 39-42**).

However, Hamilton fails to teach the use of the copyright protection information in the control information for obtaining the broadcast program or in the program information. Iijima discloses on (**figure 10**) the starting of copyright information display processing. In addition, Iijima also teaches the content control information relating to

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copy control of the content and being in the control information for obtaining the program or in the program information (**copy possible? in figure 10**), the control information including information indicating identification numbers (**figure 7**) of data packets corresponding to a broadcast program (**column 1 lines 55-59**), and the program information including information about a broadcast program and broadcast time (**column 6 lines 24-28**).

Therefore, it would have been obvious at the time of the invention to include the control information concerning copyright protection. This is a useful combination because it allows software owners to sell and download their products with the correct protection.

However, Hamilton and Iijima fail to teach the content delivery server delivers content control information corresponding to the broadcast program. Knee discloses in (**column 6 lines 39-54**) the EPG system of the invention is provided with data feeds containing different types of information and selectable for display by the user. Moreover, the data feeds may contain many different types of up-to-the-minute information. Also, a content delivery server that delivers a data stream for a broadcast program (**figure 58**), control information for obtaining data for a broadcast program, and program information (**column 45 lines 54-65**)

Therefore, it would have been obvious at the time of the invention to include the use of a content delivery server to deliver content control information corresponding to broadcast program. This is a useful combination because it allows a system to send computerized control system and control broadcasting display data remotely.

Regarding claims 2, 6, 8, and 12, Hamilton discloses a content distribution system according to claims 1, 5, 7, and 11, wherein content control information includes at least reproduction control information (**column 5 lines 48-61**), and the reproduction control information includes at least one of the number of times of reproduction of contents (**column 26 lines 17-24**), restriction of display resolution of reproduced broadband program (**column 26 lines 17-24**), and an expiration date of content reproduction (**column 12 lines 45-54**).

Regarding claims 3, 5, Hamilton discloses a content distribution system according to claims 2, 8, and 12, wherein the content receiving client controls a reproduction for the received broadcast program further based on the reproduction control information (**column 5 lines 48-61**) or controls a recording reservation operation for the broadcast program further based on the reproduction control information (**column 8 lines 42-49**). Also wherein the transmission means inserts content control information corresponding to the broadcast program in the control information for obtaining the program or in the program information (**column 8 lines 19-21**) the content control information relating to copy control of the content and being in the control information for obtaining the program or in the program information (**copy possible? in figure 10**), the control information including information indicating identification numbers (**figure 7**) of data packets corresponding to a broadcast program (**column 1 lines 55-59**), and the program information including information about a broadcast program and broadcast time (**column 6 lines 24-28**).

Regarding claims, 9 and 13, Hamilton discloses a content recording and reproduction method according to claim 12, wherein the case in which the reproduction control information **(column 5 lines 48-61)** concerning stored broadcast content **(Memory (26) in figure 2)** is included in the section of the control information for obtaining the program or the program information **(column 6 lines 39-42)**, in the storage step, a recording reservation operation for contents is controlled on the basis of the number of times of reproduction of contents **(column 8 lines 42-49)**, the restriction of display resolution at the time of reproduction of contents **(column 26 lines 17-24)**, and the expiration date of content reproduction described in the reproduction control information **(column 12 lines 45-54)** or, in the reproduction step, a reproduction operation is controlled on the basis of the number of times of reproduction of contents **(page 2 paragraph (0017) lines 10-14)**.

Regarding claims 4, 10, and 14, Hamilton discloses a content distribution system according to claims 2, 8, and 12, wherein the content or storage **(Memory (26) in figure 2)** receiving client controls a reproduction for the received broadcast program based on record control data for managing a copy generation of contents in the control information **(column 7 lines 7-10)** or controls a recording reservation operation for the broadcast program based on record control data for managing a copy generation of contents in the control information **(column 8 lines 42-49)**, when the reproduction control information is not in the control information or the program information **(column 6 lines 15-28 Klee)**.

Regarding claim 16, Knee discloses a content distribution system according to claim 1, wherein the broadcast contents and the content control information are broadcasted by radio wave (**Satellite Dish in figure 58**)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKLIN S. ANDRAMUNO whose telephone number is (571)270-3004. The examiner can normally be reached on Mon-Thurs (7:30am - 5:00pm) alternate Fri off (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571)272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/

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